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HARRISBURG, PA
MAY 30 2002
MARY E. DIANDREA CLERK
Per [Signature] Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CARLOS CHICO WOODS

Petitioner

CHESNEY, et al.

Respondents

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CIVIL NO. 1: CV-01-1078

(Judge Caldwell)

**RESPONDENTS' MOTION TO DISMISS
THE PETITION FOR WRIT OF HABEAS CORPUS**

Respondents, by and through their attorney, Victoria S. Freimuth,
Deputy Attorney General, hereby request that Petitioner's Writ of Habeas
Corpus be dismissed pursuant to the Court's order dated April 25, 2002, for
the following reasons:

1. Petitioner, Carlos Chico Woods, an inmate currently incarcerated at
the State Correctional Institution at Frackville ("SCI-Frackville"), filed
a pro se petition under 28 U.S.C. §2254 challenging an August 1999
decision of the Pennsylvania Board of Probation and Parole revoking
his parole and imposing eighty-two months of back time.

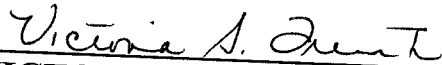
2. On September 12, 2001, Respondents filed an Answer to the Petition for Writ of Habeas Corpus asserting that the petition presented no cognizable constitutional claim and should be dismissed without hearing.
3. On October 10, 2001, the Court issued a Memorandum granting Petitioner's request for an extension of time to file a reply to Respondents' Answer and denying Petitioner's request for appointment of counsel.
4. Petitioner's reply brief was due on or before October 25, 2001. Respondents were not served with a copy of Petitioner's reply brief.
5. On April 25, 2002, the Court issued a Memorandum and Order providing Petitioner twenty days to file a brief addressing both cause and prejudice and miscarriage of justice on his equal protection and due process claims and serve said brief on the Respondents. If the Petitioner failed to do so, the petition would be dismissed.
6. Respondents would be provided fifteen days from service of Petitioner's brief in which to respond. Petitioner's brief was due on or before May 10, 2002. To this date, Respondents have not been served with a copy of Petitioner's brief.

7. Pursuant to Rule 5(a) of the Federal Rules of Civil Procedure, service is required of every pleading subsequent to the original complaint unless otherwise order by the court. Local Rule 7.2 requires service upon the opposing party at the time papers are filed with the clerk.
8. In addition, the Court's April 25, 2002 order specifically directed Petitioner to serve Respondents with the brief.
9. The petition for writ of habeas corpus should be dismissed for Petitioner's failure to follow federal and local rules, as well as the Court's April 25, 2002 order.
10. In the alternative, Petitioner should be ordered to serve Respondents with a copy of the brief addressing both cause and prejudice and miscarriage of justice on his equal protection, as well as the reply brief to Respondents Answer as filed in this matter. Respondents should be provided fifteen days upon receipt of said briefs, in which to review and file a response thereto.

WHEREFORE, Respondents request that the petition for writ of habeas corpus be dismissed.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General



VICTORIA S. FREIMUTH
Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Counsel for Respondents

OFFICE OF ATTORNEY GENERAL
Litigation Section
15th Floor, Strawberry Square
Harrisburg PA 17120

DATE: May 30, 2002

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CARLOS CHICO WOODS,

Petitioner

v.


**JOSEPH W. CHESNEY, Supt./Warden,
WILLIAM F. WARD, Chairman of the
Pennsylvania Board of Probation and
Parole, MICHAEL FISHER, Attorney
General for the State of Pennsylvania,
Respondents**

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: No. 1:CV-01-1078
:
: (Judge Caldwell)**

CERTIFICATE OF SERVICE

I, Victoria S. Freimuth, Deputy Attorney General for the Commonwealth of Pennsylvania, hereby certify that on May 30, 2002, I served a true and correct copy of the foregoing Respondents' Motion to Dismiss the Petition for Writ of Habeas Corpus, by causing it to be deposited in the United States Mail, first-class postage prepaid to the following:

**Carlos Chico Woods, BY-9729
SCI Frackville
1111 Altamont Blvd.
Frackville, PA 17931-2699**


**VICTORIA S. FREIMUTH
Deputy Attorney General**